

through contractual or other arrangements) subjecting an individual to discrimination on the grounds of race, color, or national origin in its employment practices under such program (including recruitment or recruitment advertising; employment, layoff or termination; upgrading, demotion or transfer; rates of pay and/or other forms of compensation; and use of facilities), to the extent necessary to assure equality of opportunity to, and nondiscriminatory treatment of the beneficiaries. Any action taken by a component pursuant to this provision with respect to a state or local agency subject to Standards for a Merit System of Personnel Administration, 45 CFR part 70, shall be consistent with those standards and shall be coordinated with the U.S. Civil Service Commission.

(6) The enumeration of specific forms of prohibited discrimination in this section does not limit the generality of the prohibition in paragraph (a) of this section.

[29 FR 19291, Dec. 31, 1964, as amended at 38 FR 17959, July 5, 1973]

§ 195.5 Responsibilities.

(a) The Assistant Secretary of Defense (Manpower) shall be responsible for insuring that the policies of this part are effectuated throughout the Department of Defense. He may review from time to time as he deems necessary the implementation of these policies by the components of the Department of Defense.

(b) The Secretary of each Military Department is responsible for implementing this part with respect to programs and activities receiving financial assistance from his Military Department; and the Assistant Secretary of Defense (Manpower) is responsible for similarly implementing this part with respect to all other components of the Department of Defense. Each may designate official(s) to fulfill this responsibility in accordance with § 195.2(b).

(c) The Assistant Secretary of Defense (Manpower) or, after consultation with the Assistant Secretary of Defense (Manpower), the Secretary of each Military Department or other responsible Department official designated by the Assistant Secretary of

Defense (Manpower) may assign to officials of other departments or agencies of the Government, with the consent of such departments or agencies, responsibilities in connection with the effectuation of the purposes of Title VI of the Act and this part (other than responsibility for final decision as provided in § 195.11), including the achievement of effective coordination and maximum uniformity within the Department and within the Executive Branch of the Government in the application of Title VI and this part to similar programs and in similar situations.

[29 FR 19291, Dec. 31, 1964. Redesignated and amended at 56 FR 32965, July 18, 1991]

§ 195.6 Assurances required.

(a) *General.* (1)(i) Every application for Federal financial assistance to carry out a program to which this part applies, except a program to which paragraph (b) of this section applies, and every application for Federal financial assistance to provide a facility shall, as a condition to its approval and the extension of any Federal financial assistance pursuant to the application, contain or be accompanied by an assurance that the program will be conducted or the facility operated in compliance with all requirements imposed by or pursuant to this part.

(ii) In the case where the Federal financial assistance is to provide or is in the form of personal property, or real property or interest therein or structures thereon, the assurance shall obligate the recipient, or, in the case of a subsequent transfer, the transferee, for the period during which the property or structures are used for a purpose for which the Federal financial assistance is extended or for another purpose involving the provision of similar services and benefits, or for as long as the recipient retains ownership or possession of the property, whichever is longer. In all other cases the assurance shall obligate the recipient for the period during which Federal financial assistance is extended pursuant to the application. In any case in which Federal financial assistance is extended without an application having been made, such extension shall be subject to the same assurances as if an application had been made. The responsible

Department official shall specify the form of the foregoing assurances for each program, and the extent to which like assurances will be required of sub-guarantees, contractors and sub-contractors, transferees, successors in interest, and other participants in the program. Any such assurance shall include provisions which give the United States a right to seek its judicial enforcement.

(2) In the case of real property, structures or improvements thereon, or interest therein, which was acquired through a program of Federal financial assistance, or in the case where Federal financial assistance is provided in the form of a transfer of real property or interest therein from the Federal Government, the instrument effecting or recording the transfer, shall contain a covenant running with the land assuring nondiscrimination for the period during which the real property is used for a purpose for which the Federal financial assistance is extended or for another purpose involving the provision of similar services or benefits, or for as long as the recipient retains ownership or possession of the property, whichever is longer. Where no transfer of property is involved, but property is improved under a program of Federal financial assistance, the recipient shall agree to include such a covenant in any subsequent transfer of such property. Where the property is obtained from the Federal Government, such covenant may also include a condition coupled with a right to be reserved by the Department to revert title to the property in the event of a breach of the covenant where, in the discretion of the responsible Department official, such a condition and right of reverter is appropriate to the program under which the real property is obtained and to the nature of the grant and the grantee. In the event a transferee of real property proposes to mortgage or otherwise encumber the real property as security for financing construction of new, or improvement of existing facilities on such property for the purposes for which the property was transferred, the responsible Department official may agree, upon request of the transferee and if necessary to accomplish such financing, and upon

such conditions as he deems appropriate, to forbear the exercise of such right to revert title for so long as the lien of such mortgage or other encumbrance remains effective. In programs receiving Federal financial assistance in the form, or for the acquisition of real property or an interest in real property, to the extent that rights to space on, over, or under any such property are included as part of the program receiving such assistance, the nondiscrimination requirements of this part shall extend to any facility located wholly or in part in such space.

(3) The assurance required in the case of a transfer of surplus personal property shall be inserted in a written agreement by and between the Department of Defense component concerned and the recipient.

(b) *Continuing State programs.* Every application by a State agency to carry out a program involving continuing Federal financial assistance to which this part applies shall as a condition to its approval and the extension of any Federal financial assistance pursuant to the application (1) contain or be accompanied by a statement that the program is (or, in the case of a new program, will be) conducted in compliance with all requirements imposed by or pursuant to this part, and (2) provide or be accompanied by provision for such methods of administration for the program as are found by the responsible Department official to give reasonable assurance that the applicant and all recipients of Federal financial assistance under such program will comply with all requirements imposed by or pursuant to this part. In cases of continuing State programs in which applications are not made, the extension of Federal financial assistance shall be subject to the same conditions under this subsection as if applications had been made.

(c) *Assurances from institutions.* (1) In the case of Federal financial assistance to an institution of higher education, the assurance required by this section shall extend to admission practices and to all other practices relating to the treatment of students.

(2) The assurance required with respect to an institution of higher education, or any other institution, insofar as the assurance relates to the institution's practices with respect to admission or other treatment of individuals as students of the institution or to the opportunity to participate in the provision of services or other benefits to such individuals, shall be applicable to the entire institution unless the applicant establishes, to the satisfaction of the responsible Department official, that the institution's practices in designated parts or programs of the institution will in no way affect its practices in the program of the institution for which Federal financial assistance is sought, or the beneficiaries of or participants in such program. If in any such case the assistance sought is for the construction of a facility or part of a facility, the assurance shall in any event extend to the entire facility and to facilities operated in connection therewith.

(d) *Elementary and secondary schools.* The requirement of paragraph (a), (b), or (c) of this section, with respect to any elementary or secondary school or school system shall be deemed to be satisfied if such school or school system (1) is subject to a final order of a court of the United States for the desegregation of such school or school system, and provides an assurance that it will comply with such order, including any future modification of such order, or (2) submits a plan for the desegregation of such school or school system which the responsible official of the Department of Health, Education, and Welfare determines is adequate to accomplish the purposes of the Act and this part, and provides reasonable assurance that it will carry out such plan; in any case of continuing Federal financial assistance the said Department officer may reserve the right to redetermine, after such period as may be specified by him, the adequacy of the plan to accomplish the purpose of the Act or this part within the earliest practicable time. In any case in which a final order of a court of the United States for the desegregation of such school or school system is entered after submission of such a plan, such plan shall be revised to conform to such

final order, including any future modification of said order.

[29 FR 19291, Dec. 31, 1964, as amended at 38 FR 17960, July 5, 1973]

§ 195.7 Compliance information.

(a) *Cooperation and assistance.* Each responsible Department official shall to the fullest extent practicable seek the cooperation of recipients in obtaining compliance with this part and shall provide assistance and guidance to recipients to help them comply voluntarily with this part.

(b) *Compliance reports.* Each recipient shall keep such records and submit to the responsible Department official timely, complete and accurate compliance reports at such times, and in such form and containing such information, as the responsible Department official may determine to be necessary to enable him to ascertain whether the recipient has complied or is complying with this part. In general, recipients should have available for the Department racial and ethnic data showing the extent to which members of minority groups are beneficiaries of federally assisted programs. In the case of any program under which a primary recipient extends Federal financial assistance to any other recipient, such other recipient shall also submit such compliance reports to the primary recipient as may be necessary to enable the primary recipient to carry out its obligations imposed pursuant to this part.

(c) *Access to sources of information.* Each recipient shall permit access by the responsible Department official during normal business hours to such of its books, records, accounts, and other sources of information, and its facilities as may be pertinent to ascertain compliance with this part. Where any information required of a recipient is in the exclusive possession of any other institution or person and this institution or person shall fail or refuse to furnish this information, the recipient shall so certify in its report and shall set forth what efforts it has made to obtain the information.

(d) *Information to beneficiaries and participants.* Each recipient shall make available to participants, beneficiaries, and other interested persons such information regarding the provisions of